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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-943;  
C-570-944]

Certain Oil Country Tubular Goods from the People's Republic of China: Notice of Amended Final Scope Ruling Pursuant to Court Decision

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On July 22, 2019, the United States Court of International Trade (CIT) issued its final judgment in *Bell Supply Co. v. United States*, Court No. 14-00066, affirming the Department of Commerce's (Commerce) remand redetermination concerning the final scope ruling, which found that seamless unfinished OCTG from China finished in third countries is not substantially transformed by the third country processing and is therefore covered by the scope of the *Orders*.

DATES: Applicable August 1, 2019.

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## SUPPLEMENTARY INFORMATION:

### Background

On February 7, 2014, the Department issued the *Bell Supply Scope Ruling*,<sup>1</sup> in which it determined that seamless unfinished OCTG (*i.e.*, green tubes) that is finished in third countries is covered under the scope of the *Orders* based on an analysis of the factors under 19 CFR 351.225(k)(1).<sup>2</sup> Bell Supply Company, LLC (Bell Supply) challenged the Department's final ruling before the CIT. On July 9, 2015, the Court issued its opinion on the *Bell Supply Scope Ruling* remanding Commerce's determination back to the agency for further analysis.<sup>3</sup> Commerce issued a redetermination on remand, under protest, which continued to find that the merchandise in question was within the scope of the *Orders*.<sup>4</sup> On April 27, 2016, the CIT issued its opinion on the *First Remand Results*, again remanding Commerce's determination for further analysis.<sup>5</sup> On August 11, 2016, Commerce issued the *Second Remand Results*, determining that green tubes manufactured in China, and subsequently finished in a third country, are not covered by the scope of the *Orders*.<sup>6</sup> In *Bell Supply III*, the CIT sustained Commerce's *Second Remand Results*.<sup>7</sup> On January 19, 2017, Commerce published a notice of a court decision that is not "in

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<sup>1</sup> See Memorandum, "Final Scope Ruling on Green Tubes Manufactured in the People's Republic of China and Finished in Countries Other than the United States and the People's Republic of China" (February 7, 2014) (*Bell Supply Scope Ruling*).

<sup>2</sup> See *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order*, 75 FR 3203 (January 20, 2010); see also *Certain Oil Country Tubular Goods from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order*, 75 FR 28551 (May 21, 2010) (collectively, *Orders*).

<sup>3</sup> See *Bell Supply Co. v. United States*, Court No. 14-00066, Slip Op. 15-73 (CIT July 9, 2015) (*Bell Supply I*).

<sup>4</sup> See Final Results of Redetermination Pursuant to Remand, *Bell Supply Co. v. United States*, Court No. 14-00066, dated November 9, 2015 (*First Remand Results*).

<sup>5</sup> See *Bell Supply Co. v. United States*, Court No. 14-00066, Slip Op. 16-41 (CIT April 27, 2016) (*Bell Supply II*).

<sup>6</sup> See Final Results of Second Redetermination Pursuant to Remand, *Bell Supply Co. v. United States*, Court No. 14-00066, dated August 11, 2016 (*Second Remand Results*) at 14-19.

<sup>7</sup> See *Bell Supply Co. v. United States*, Court No. 14-00066, Slip Op. 16-109 (CIT Nov. 23, 2016) (*Bell Supply III*) at 16.

harmony” with a Commerce determination,<sup>8</sup> in fulfillment of the publication requirements of *Timken*,<sup>9</sup> as clarified by *Diamond Sawblades*.<sup>10</sup> Commerce’s *Timken Notice and Amended Final Scope Ruling* also amended the *Bell Supply Scope Ruling* to find that the scope of the *Orders* does not cover the products addressed in the *Bell Supply Scope Ruling*.<sup>11</sup>

Domestic interested parties appealed the CIT’s affirmance of the *Second Remand Results* to the U.S. Court of Appeals for the Federal Circuit (CAFC). On April 25, 2018, the CAFC vacated the CIT’s decision sustaining the *Second Remand Results*, and remanded the case to the CIT to determine whether Commerce properly applied its substantial transformation analysis in the *Bell Supply Scope Ruling*.<sup>12</sup> On October 18, 2018, the CIT remanded Commerce’s *Bell Supply Scope Ruling*, finding that certain factors considered in Commerce’s substantial transformation analysis were not supported by substantial evidence.<sup>13</sup> Commerce issued the *Third Remand Results* on March 28, 2019, in which Commerce reconsidered the aspects of its substantial transformation analysis remanded by the Court and continued to find that green tubes are not substantially transformed by the finishing process in third countries, and therefore are covered by the scope of the *Orders*.<sup>14</sup> On July 22, 2019, the CIT sustained Commerce’s *Third Remand Results*.<sup>15</sup>

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<sup>8</sup> See *Certain Oil Country Tubular Goods From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Scope Ruling and Notice of Amended Final Scope Ruling Pursuant to Court Decision*, 82 FR 6490 (January 19, 2017) (*Timken Notice and Amended Final Scope Ruling*).

<sup>9</sup> See *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

<sup>10</sup> *Diamond Sawblades Mfrs. Coalition v. United States*, 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

<sup>11</sup> See *Timken Notice and Amended Final Scope Ruling*.

<sup>12</sup> See *Bell Supply Co. v. United States*, 888 F.3d 1222, 1231 (Fed. Cir. 2018).

<sup>13</sup> See *Bell Supply Co. v. United States*, Court No. 14-00066, Slip Op. 18-141 (CIT Oct. 18, 2018) (*Bell Supply IV*).

<sup>14</sup> See *Final Results of Redetermination Pursuant to Remand, Bell Supply Co. v. United States*, Court No. 14-00066, dated March 28, 2019 (*Third Remand Results*).

<sup>15</sup> See *Bell Supply Co. v. United States*, Court No. 14-00066, Slip Op. 19-89 (CIT July 22, 2019) (*Bell Supply V*).

### Amended Final Scope Ruling

There is now a final court decision with respect to the *Bell Supply Scope Ruling*. Previously, the *Timken Notice and Amended Final Scope Ruling* amended the *Bell Supply Scope Ruling* to find that the scope did not cover the merchandise at issue. Therefore, Commerce is amending its scope ruling and finds that the scope of the *Orders* covers the products addressed in the *Bell Supply Scope Ruling*. The period to appeal the CIT's ruling expired on September 22, 2019. Because no parties appealed the CIT's ruling, Commerce will instruct U.S. Customs and Border Protection to continue to suspend liquidation and to require a cash deposit of estimated duties on the merchandise subject to the scope ruling entered, or withdrawn from warehouse, for consumption on or after June 20, 2012, the date of initiation of the scope inquiry.

Dated: October 15, 2019.

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Assistant Secretary  
for Enforcement and Compliance.

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